

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant:	Brignone et al.	Patent Application	
Serial No.:	10/698,708	Group Art Unit:	2453
Filed:	October 30, 2003	Examiner:	Choudhury

For: DATA STRUCTURE DISPOSED IN A COMPUTER READABLE MEMORY  
THAT PROVIDES INFORMATION CORRESPONDING TO A LOCATION

Appeal Brief

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### I. Real Party in Interest

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 11445 Compaq Center Drive West, Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

## II. Related Appeals and Interferences

There are no related appeals or interferences known to the Appellants.

### III. Status of Claims

Claims 1-26 are pending. Claims 1-26 are rejected. This Appeal involves Claims 1-26.

#### IV. Status of Amendments

All proposed amendments have been entered. An amendment subsequent to the Final Action has not been filed.

## V. Summary of Claimed Subject Matter

Claim 1 pertains to a computer readable storage medium having a data structure disposed therein for providing information corresponding to a geographic location (page 9, lines 2-3). The data structure includes:

a first data field for identifying said geographic location and positional data related to a physical location of said geographic location (1101 of Figure 11; page 53, lines 6-7; and page 12, lines 4-24) ; and

a second data field (1102 of Figure 11) associated with said first data field for containing said information, said second field is comprising a uniform resource locator (page 53, lines 8-11), wherein a user can access said information (page 13, lines 23-24);

wherein said first data field and said second data field are linked such that said data structure comprising said positional data and said uniform resource locator related to said physical location functions as a virtual beacon and is downloadable to a client device near said physical location such that said uniform resource locator is accessible by said user without browsing (page 10, lines 26-27; page 35, line 22-page 36, line 5; page 47, lines 20-23; and page 53, lines 4-6), wherein a physical location of said client device is not required to be transmitted (page 31, lines 10-14);

said virtual beacon selectively provides a portion of said information to said client device on said network, wherein said portion is based on a context relating to a user of said client device (page 9, lines 12-21; and page 19, line 17-page 21, line 21); and

said context and said information is dynamically updated based on a condition relating to a temporal pertinence of said information (page 9, lines 12-21; and page 19, line 17-page 21, line 21).

Claim 10 pertains to a network based system for selectively providing a data structure to a client device, said data structure having a first data field for identifying a geographic location and positional data related to a physical location of said geographic location and a second data field associated with said first data field containing information corresponding to said location, said second field is comprising a uniform resource locator (page 10, lines 7-19; and page 52, lines 5-14). The system includes:

a filter coupled to said network for accessing context stored at said client device and on the basis of said context determining that said data structure is pertinent to a user of said client device and wherein said filter functions to determine locating said user (page 28, lines 15-25 ), wherein said context and said information is dynamically updated based on a condition relating to a temporal pertinence of said information (page 54, lines 1-6), and wherein a physical location of said client device is not required to be transmitted (page 31, lines 10-14);

a server coupled to said network for selectively furnishing a portion said data structure to said client device on the basis of said context and said determining, wherein said first data field and said second data field are linked such that said data structure comprising said positional data and said uniform resource locator related to said physical location is downloaded to said client



device when said client device is near said physical location such that said uniform resource locator is accessible without browsing (page 10, lines 26-27; page 35, line 22-page 36, line 5; page 47, lines 20-23; and page 53, lines 4-6); and

a database coupled to said server for storing a plurality of said data structures and providing said data structure to said server (page 28, lines 6-25).

Claim 16 pertains to a network based method for selectively providing a data structure, said data structure having a first data field for identifying a geographic location and positional data related to a physical location of said geographic location and a second data field associated with said first data field containing information corresponding to said location, said second field is comprising a uniform resource locator, to a client device, (page 28, lines 6-25) said method comprising:

in response to a request from said client device, seeking context that characterizes a user of said client device (page 28, lines 6-25);

in response to said seeking, filtering said context to deter locating said user (page 28, line 6 – page 29, line 10);

upon said filtering, determining from said context that said data structure is pertinent to said user (page 31, line 24 – page 32, line 8);

in response to said determining, sending a portion of said data structure to said client device, wherein said portion is based on said context, wherein said first data field and said second data field are linked such that said data structure comprising said positional data and said uniform resource locator related to said

physical location is sent to said client device when said client device is near said physical location such that said uniform resource locator is accessible without browsing (page 10, lines 26-27; page 35, line 22-page 36, line 5; page 47, lines 20-23; and page 53, lines 4-6); and

dynamically updating said context and said portion of said data structure based on a condition relating to a temporal pertinence of said information and said portion of said data structure (page 54, lines 1-6), wherein a physical location of said client device is not required to be transmitted (page 31, lines 10-14).

Claim 22 pertains to a computer readable storage medium having a data structure disposed therein for providing information corresponding to a geographic location (page 9, lines 2-3), said data structure comprising:

a first data field for identifying said geographic location with respect to a point in three dimensional reference system related to a physical location of said geographic location, wherein said three dimensional reference system is based selectively on an absolute reference and a relative reference (1101 of Figure 11; page 24, lines 17-21, page 53, lines 6-7; page 12, lines 4-24); and

a second data field associated with said first data field for containing said information, said second field is comprising a uniform resource locator, wherein a user can access said information (page 53, lines 8-11);

wherein said first data field and said second data field are linked such that said data structure comprising said geographic location and said uniform resource locator related to said physical location functions as a virtual beacon

and is downloadable to a client device near said physical location such that said uniform resource locator is accessible by said user without browsing (page 10, lines 26-27; page 35, line 22-page 36, line 5; page 47, lines 20-23; and page 53, lines 4-6) and

said virtual beacon selectively provides a portion of said information to said client device on said network, wherein said portion is based on a context relating to a user of said client device (page 9, lines 12-21; and page 19, line 17-page 21, line 21); and

said context and said information is dynamically updated based on a condition relating to a temporal pertinence of said information (page 9, lines 12-21; and page 19, line 17-page 21, line 21), wherein a physical location of said client device is not required to be transmitted (page 31, lines 10-14).

VI. Grounds of Rejection to be Reviewed on Appeal

1. Claims 1-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Want et al. (US 6,122,520), hereinafter referenced as “Want,” in view of Schneider (US 7,035,896).

## VII. Arguments

### 1. Whether Claims 1-26 are patentable over the combination of Want and Schneider

The instant Office Action states that Claims 1-26 are rejected under 35 U.S.C. §103(a) as being unpatentable the combination of Want and Schneider. Appellants respectfully submit that the embodiments of the present invention as recited in Claims 1-26 are patentable over the combination of Want and Schneider for at least the following rationale.

Claim 1 recites (emphasis added):

A computer readable storage medium having a data structure disposed therein for providing information corresponding to a geographic location, said data structure comprising:

- a first data field for identifying said geographic location and positional data related to a physical location of said geographic location; and

- a second data field associated with said first data field for containing said information, said second field is comprising a uniform resource locator, wherein a user can access said information;

- wherein said first data field and said second data field are linked such that said data structure comprising said positional data and said uniform resource locator related to said physical location functions as a virtual beacon and is downloadable to a client device near said physical location such that said uniform resource locator is accessible by said user without browsing, wherein a physical location of said client device is not required to be transmitted;

- said virtual beacon selectively provides a portion of said information to said client device on said network, wherein said portion is based on a context relating to a user of said client device; and

- said context and said information is dynamically updated based on a condition relating to a temporal pertinence of said information.

Independent Claims 10, 16 and 22 recite similar embodiments. Claims 2-9, 11-15, 17-21 and 23-26 that depend from independent Claims 1, 10, 16 and 22, respectively, also include these embodiments.

“As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries” including “[a]scertaining the differences between the claimed invention and the prior art” (MPEP 2141(II)). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious” (emphasis in original; MPEP 2141.02(I)). Appellants note that “[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art” (emphasis added; MPEP 2141(III)).

Moreover, Appellants respectfully note that “[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention” (emphasis in original; MPEP 2141.02(VI); *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)).

Appellants respectfully submit that Want does not suggest or teach “a physical location of said client device is not required to be transmitted” as claimed (emphasis added). Moreover, Appellants respectfully submit that Want teaches away from “a physical location of said client device is not required to be transmitted,” as claimed (emphasis added).

The Application states “the network components remain unaware of the location of client device 820, advantageously helping to protect the privacy of a user of device 820...the client device 820 specifies to the network an area of interest, which can, but does not have to, correspond to the current location of the device 820 (page 31, lines 10-14). Accordingly, “a physical location of said client device is not required to be transmitted” as claimed (emphasis added).

Appellants understand Want to disclose a physical location of a client device that is required to be transmitted. Appellants understand computer 110 (as depicted in at least Fig. 1) to be a client device that transmits its physical location. In particular, Appellants understand Want to disclose the following regarding transmission of the client device’s physical location: (1) “[t]he coordinate entry is transmitted to the distributed network for retrieval of corresponding location specific information” (emphasis added; abstract), (2) “the location information system 100 transmits, via the transceiver 130 [of computer 110], the coordinate entries directly to the predetermined node 300” (emphasis added; col. 4, lines 40-42), and (3) “the bar code label 212 encodes either the same longitudinal and latitudinal information that would be obtained from the

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GPS system....[and]... [t]he coordinate entry...is transmitted to the distributed network 305, via transceiver 130 [of computer 110] and provided to the predetermined node 305” (emphasis added; col. 6, lines 38-48). Therefore, by disclosing a physical location of a client device is required to be transmitted, Appellants respectfully submit that Want teaches away from “a physical location of said client device is not required to be transmitted” as claimed (emphasis added).

Moreover, Schneider does not overcome the deficiencies of Want. Appellants understand Schneider to teach or suggest a “[a] device, network access apparatus executes any program such as servlet, applet, script, or web browser” (abstract). In particular, Schneider does not teach or suggest “a physical location of said client device is not required to be transmitted” as claimed (emphasis added).

The instant Office Action asserts that Want “does not teach the transmission of a physical location” (page 3). Appellants respectfully disagree. For the reasons stated above, Want clearly and explicitly discloses that computer 110 (e.g., a client device) transmits its physical location.

The instant Office Action also asserts that “Schneider... already teaches how physical location does not have to be sent” (page 13). Moreover, “[h]ence based on the applicant’s own specification, both Want and Schneider teach the newly claimed feature of not requiring the transmission of a physical location”



(page 13). Appellants respectfully submit that these assertions, regardless of their veracity, do not satisfy a *prima facie* case of obviousness under 35 U.S.C. §103(a). For example, the instant Office Action does NOT explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art (emphasis added; MPEP 2141(III)).

Appellants respectfully submit that the combination of Want and Schneider, as a whole, does not satisfy a *prima facie* case of obviousness under 35 U.S.C. §103(a). Therefore, Appellants respectfully submit that Claims 1, 10, 16 and 22 are in a condition for allowance. Appellants respectfully submit that the combination of Want and Schneider also does not render obvious the additional claimed features as recited in Claims 2-9, 11-15, 17-21 and 23-26 that depend from independent Claims 1, 10, 16 and 22, respectively. Therefore, Claims 2-9, 11-15, 17-21 and 23-26 are in a condition for allowance as being dependent on an allowable base claim.

Conclusion

Appellants believe that pending Claims 1-26 are patentable over the asserted art.

Accordingly, Appellants respectfully submit that the rejections of Claims 1-26 are improper and should be reversed.

Appellants wish to encourage the Examiner or a member of the Board of Patent Appeals to telephone the Appellants' undersigned representative if it is felt that a telephone conference could expedite prosecution.

Respectfully submitted,

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### VIII. Appendix - Clean Copy of Claims on Appeal

1. A computer readable storage medium having a data structure disposed therein for providing information corresponding to a geographic location, said data structure comprising:
  - a first data field for identifying said geographic location and positional data related to a physical location of said geographic location; and
  - a second data field associated with said first data field for containing said information, said second field is comprising a uniform resource locator, wherein a user can access said information;wherein said first data field and said second data field are linked such that said data structure comprising said positional data and said uniform resource locator related to said physical location functions as a virtual beacon and is downloadable to a client device near said physical location such that said uniform resource locator is accessible by said user without browsing, wherein a physical location of said client device is not required to be transmitted;
  - said virtual beacon selectively provides a portion of said information to said client device on said network, wherein said portion is based on a context relating to a user of said client device; and
  - said context and said information is dynamically updated based on a condition relating to a temporal pertinence of said information.
2. The computer readable storage medium as recited in Claim 1 wherein said context is subject to filtering and wherein said filtering functions to deter locating said user.
3. The computer readable storage medium as recited in Claim 1 wherein the receivability of said data structure to said client device is activated or deactivated in response to said condition.

4. The computer readable storage medium as recited in Claim 3 wherein said condition comprises a quality selected from the group consisting essentially of time and a locational aspect of said client device.

5. The computer readable storage medium as recited in Claim 4 wherein said locational aspect comprises a state selected from the group consisting essentially of directional orientation, tilt orientation, residing within a specified area of coverage, motion through said specified area of coverage, and accessibility of said location to a position of said client device.

6. The computer readable storage medium as recited in Claim 5 wherein said condition comprises a sequence of events occurring and wherein said area of coverage changes dynamically in response to said sequence of events.

7. The computer readable storage medium as recited in Claim 2 wherein said context comprises an attribute of said user, said attribute selected from the group consisting essentially of identity, profile, history, a preference, a credential, capability, an interest, and a privacy selection.

8. The computer readable storage medium as recited in Claim 2 wherein said client device comprises a portable computing device and wherein said context is stored on said portable computing device.

9. The computer readable storage medium as recited in Claim 2 wherein said first data structure comprises a latitude and a longitude.

10. A network based system for selectively providing a data structure to a client device, said data structure having a first data field for identifying a geographic location and positional data related to a physical location of said geographic location and a second data field associated with said first data field

containing information corresponding to said location, said second field is comprising a uniform resource locator, comprising:

a filter coupled to said network for accessing context stored at said client device and on the basis of said context determining that said data structure is pertinent to a user of said client device and wherein said filter functions to determine locating said user, wherein said context and said information is dynamically updated based on a condition relating to a temporal pertinence of said information, and wherein a physical location of said client device is not required to be transmitted;

a server coupled to said network for selectively furnishing a portion said data structure to said client device on the basis of said context and said determining, wherein said first data field and said second data field are linked such that said data structure comprising said positional data and said uniform resource locator related to said physical location is downloaded to said client device when said client device is near said physical location such that said uniform resource locator is accessible without browsing; and

a database coupled to said server for storing a plurality of said data structures and providing said data structure to said server.

11. The system as recited in Claim 10 wherein the receivability of said data structure to said client device is activated or deactivated in response to said condition.

12. The system as recited in Claim 11 wherein said condition comprises a quality selected from the group consisting essentially of time and a locational aspect of said client device.

13. The system as recited in Claim 12 wherein said locational aspect comprises a state selected from the group consisting essentially of directional orientation, tilt orientation, residing within a specified area of coverage, motion

through said specified area of coverage, and accessibility of said location to a position of said client device.

14. The system as recited in Claim 13 wherein said condition comprises a sequence of events occurring and wherein said area of coverage changes dynamically in response to said sequence of events.

15. The system as recited in Claim 10 wherein said context comprises an attribute of said user, said attribute selected from the group consisting essentially of identity, profile, history, a preference, a credential, capability, an interest, and a privacy selection.

16. A network based method for selectively providing a data structure, said data structure having a first data field for identifying a geographic location and positional data related to a physical location of said geographic location and a second data field associated with said first data field containing information corresponding to said location, said second field is comprising a uniform resource locator, to a client device, said method comprising:

in response to a request from said client device, seeking context that characterizes a user of said client device;

in response to said seeking, filtering said context to deter locating said user;

upon said filtering, determining from said context that said data structure is pertinent to said user;

in response to said determining, sending a portion of said data structure to said client device, wherein said portion is based on said context, wherein said first data field and said second data field are linked such that said data structure comprising said positional data and said uniform resource locator related to said physical location is sent to said client device when said client device is near said physical location such that said uniform resource locator is accessible without browsing; and

dynamically updating said context and said portion of said data structure based on a condition relating to a temporal pertinence of said information and said portion of said data structure, wherein a physical location of said client device is not required to be transmitted.

17. The method as recited in Claim 16 wherein the receivability of said data structure to said client device is activated or deactivated in response to said condition.

18. The method as recited in Claim 17 wherein said condition comprises a quality selected from the group consisting essentially of time and a locational aspect of said client device.

19. The method as recited in Claim 18 wherein said locational aspect comprises a state selected from the group consisting essentially of directional orientation, tilt orientation, residing within a specified area of coverage, motion through said specified area of coverage, and accessibility of said location to a position of said client device.

20. The method as recited in Claim 19 wherein said condition comprises a sequence of events occurring and wherein said area of coverage changes dynamically in response to said sequence of events.

21. The method as recited in Claim 16 wherein said context comprises an attribute of said user, said attribute selected from the group consisting essentially of identity, profile, history, a preference, a credential, capability, an interest, and a privacy selection.

22. A computer readable storage medium having a data structure disposed therein for providing information corresponding to a geographic location, said data structure comprising:

a first data field for identifying said geographic location with respect to a point in three dimensional reference system related to a physical location of said geographic location, wherein said three dimensional reference system is based selectively on an absolute reference and a relative reference; and

a second data field associated with said first data field for containing said information, said second field is comprising a uniform resource locator, wherein a user can access said information;

wherein said first data field and said second data field are linked such that said data structure comprising said geographic location and said uniform resource locator related to said physical location functions as a virtual beacon and is downloadable to a client device near said physical location such that said uniform resource locator is accessible by said user without browsing and

said virtual beacon selectively provides a portion of said information to said client device on said network, wherein said portion is based on a context relating to a user of said client device; and

said context and said information is dynamically updated based on a condition relating to a temporal pertinence of said information, wherein a physical location of said client device is not required to be transmitted.

23. The computer readable storage medium as recited in Claim 22 wherein said first data structure comprises a latitude, a longitude.

24. The computer readable storage medium as recited in Claim 22 wherein said first data structure comprises a plurality of fields wherein said fields identify said geographic location, wherein said absolute reference comprises a plurality of coordinate systems, and wherein each field of said plurality of fields is defined in a separate coordinate system of said plurality of coordinate systems.

25. The computer readable storage medium as recited in Claim 22 wherein said first data structure comprises a plurality of fields wherein said fields identify said geographic location, wherein said relative reference comprises a



plurality of coordinate systems, and wherein each field of said plurality of fields is defined in a separate coordinate system of said plurality of coordinate systems.

26. The computer readable storage medium as recited in Claim 22 wherein said first data structure comprises a plurality of fields wherein said fields identify said geographic location, wherein each field of said plurality of fields is defined in a separate coordinate system of said plurality of coordinate systems, and wherein a first field of said plurality of fields is defined based on said absolute reference and a second field of said plurality of fields is defined based on said relative reference.

IX. Evidence Appendix

No evidence is herein appended.

X. Related Proceedings Appendix

No related proceedings.